

## REMARKS

Further to Applicants' Request for Continued Examination, applicants respond to the Examiner's detailed March 26, 2007 Office Action with the following remarks presented according to the Examiner's communication. Claims 1 – 17 are pending in the application. Claim 1 is herewith amended. Claims 18 and 19 are new. Support for the amendments can be found throughout the specification (e.g., paragraphs [0018] – [0021] and [0069] of U.S. Patent Publication No. 2004/0092988A1), drawings, and original claims. No new matter is presented by the amendments. Accordingly, applicants respectfully request entry of the amendments and reconsideration of claims 1 – 19 in light of the following remarks.

### Claim Rejections – 35 USC §102

Applicants respectfully traverse the rejection of claims 1 – 17 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,726,690 ("Eckman"). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Eckman teaches an enucleation device including blades "preferably formed of a **hard, bio-compatible metal** such as stainless steel, titanium, nickel, metal alloy, or the like. It should be noted that **the blades...are rigid**," *See* Eckman, Col. 7, lines 34 – 40 (emphasis added). Eckman does not teach a plurality of elastically deformable blades, nor does Eckman disclose or suggest deformable blades comprising a shape memory alloy.

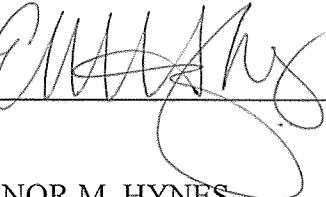
Independent claim 1 recites: "[a]n enucleation device comprising...a plurality of elastically deformable blades... where the plurality of elastically deformable blades can cut material in a space when the blades are not deformed, after accessing the space through a passage while the blades are deformed." The claims are distinctive from Eckman because the language "elastically deformable blades" indicates that after the plurality of blades are deformed, the blades are capable of regaining their original geometry, while Eckman teaches only hard, rigid blades that require the application of substantial force to regain their original geometry. Applicants respectfully submit that claims 1 – 18 are not anticipated by Eckman. Accordingly, applicants request that the Examiner reconsider and withdraw this rejection.

Applicants appreciate the opportunity to call the Examiner but believe that this amendment to the claims and the foregoing remarks fully address the issues raised by the Office Action. On the other hand, the Examiner is invited to call the undersigned attorney should the Examiner have any matters to address that will facilitate allowance of the application.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

Respectfully submitted,

Date 08/27/2007

By 

GOODWIN PROCTER LLP  
901 New York Avenue, NW  
Washington, DC 20001  
Telephone: 202-346-4000  
Facsimile: 202-346-4444

ELEANOR M. HYNES  
Attorney for Applicant  
under 37 C.F.R. 1.134  
Registration No. 58,013  
ehynes@goodwinprocter.com

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No 07-1700 for any such fees; and applicants hereby petition for any needed extension of time.